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10/534,446	05/10/2005	Michael Anthony Pugel	PU020452	4710
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Joseph J. Laks			LEE, PHILIP C	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/534,446	<b>Applicant(s)</b> PUGEL ET AL.
	<b>Examiner</b> PHILIP C. LEE	<b>Art Unit</b> 2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 10 May 2005.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)

Paper No(s)/Mail Date 5/10/05

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-20 are presented for examination.

*Objection*

2. Claims 8-10, 12 and 15-19 are objected to because of the following informalities or grammar errors: As per claim 8, line 3, “the receiver” should be “the alert receiver” as in claim 8, line 1. As per claim 9, line 2, “the receiver” should be “the alert receiver” as in claim 9, line 1. As per claim 10, line 2, “the receiver” should be “the alert receiver” as in claim 10, line 1. As per claim 12, line 1, “the receiver” should be “the alert receiver” as in claim 12, line 1. As per claim 15, line 7, “those reports” should be “the encoded reports” as in claim 15, line 6. As per claim 18, line 1, “the codes” should be “the codes designating geographic locations”.

*Claim Rejections – 35 USC 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The following terms lack proper antecedent basis:

- i. the event codes – claim 8.
- ii. the receiver's location – claim 9.
- b. Claim language in the following claims is not clearly understood:
  - iii. As per claim 8, line 2, it is unclear if "geographic codes" refers to the "codes designating geographic locations" in claim 1, line 5 [i.e., if they are the same, "the (or said) codes designating geographic locations" must be used].

*Claim Rejections – 35 USC 101*

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claim 1 is rejected under 35 U.S.C. 101 because "An alert receiver" comprising a discriminator and a warning device (i.e., software) (see page 4, lines 23-25 of the specification and 32,30 of fig. 2) does not include any functional structure of a machine. A machine comprising a discriminator and a warning device (i.e., software) is considered as program per se, which is not one of the categories of statutory subject matter.

7. Claim 15 is rejected under 35 U.S.C. 101 because "An alert system" (i.e., machine) comprising a receiver, a discriminator and a warning device (i.e., software) (see page 4, lines 23-25 of the specification and 32,30 of fig. 2) does not include any functional structure of a

machine. A machine comprising a receiver, a discriminator and a warning device (i.e., software) is considered as program per se, which is not one of the categories of statutory subject matter.

*Claim Rejections – 35 USC 102*

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

9. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

10. Claims 1-10 and 14-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Deeds, U.S. Patent 6,710,715 (hereinafter Deeds).

11. As per claim 1, Deeds teaches the invention as claimed comprising:

a discriminator which receives encoded signals from a network (col. 11, lines 24-26) (inherent in a broadcast network), the encoded signals for reporting an event (reporting weather event) from an information source (e.g., NWS) coupled to the network (col. 13, lines 31-33, 38-40), wherein the discriminator compares the encoded signals, which include codes designating geographic locations (col. 4, lines 28-30)(geographical area header code block of SAME message), to codes associated with specific localities to determine whether to alert a user (col. 13, lines 42-49); and

a warning device responsive to a result of comparing the encoded signals to the codes associated with specific localities (col. 13, lines 45-49; col. 14, lines 1-4).

12. As per claim 15, Deeds teaches the invention as claimed comprising: a receiver located at a user's location (304, fig. 3), the user's location having a code designation associated therewith (col. 10, lines 58-61); the receiver being coupled to a network (inherently coupled to a broadcast network in order to receive broadcast from NWS) from which a plurality of encoded reports are provided to the receiver (col. 11, lines 24-26; col. 13, lines 31-40); a discriminator (214, 314) which deciphers the encoded reports to determine those reports corresponding to the code designation associated with the user's location (col. 13, lines 35-49); and a warning device (220, 232) located at the user's location to inform a user of the reports corresponding to the code designation associated with the user's location (col. 13, lines 45-49; col. 14, lines 1-4).

13. As per claim 2, Deeds teaches the invention as claimed in claim 1 above. Deeds further teach wherein the warning device includes an audible alarm (col. 14, lines 1-4).

14. As per claim 3, Deeds teaches the invention as claimed in claim 1 above. Deeds further teach wherein the warning device includes a visual alarm (col. 13, lines 48-49).

15. As per claim 4, Deeds teaches the invention as claimed in claim 1 above. Deeds further teach wherein the codes associated with specific localities including codes designating a user's geographic location (col. 10, lines 59-63).

16. As per claim 5, Deeds teaches the invention as claimed in claim 4 above. Deeds further teach wherein the codes designating geographic locations include Federal Information Processing System (FIPS) codes (col. 13, lines 44-45).

17. As per claim 6, Deeds teaches the invention as claimed in claim 1 above. Deeds further teach wherein the encoded signals include Specific Area Message Encoding (SAME) (col. 13, lines 35-37).

18. As per claim 7, Deeds teaches the invention as claimed in claim 1 above. Deeds further teach comprising a display, which renders textual messages from the encoded signals when a comparison criterion is met (col. 13, lines 45-49).

19. As per claim 8, Deeds teaches the invention as claimed in claim 1 above. Deeds further teach wherein the event is associated with geographic codes and the codes associated with specific localities designate an aspect of the receiver such that when one or more of the event codes match one or more of the codes associated with specific localities, the warning device responds (col. 4, lines 28-30; col. 13, lines 42-49).
20. As per claim 9, Deeds teaches the invention as claimed in claim 8 above. Deeds further teach wherein the aspect of the receiver includes a code designating the receiver's location (col. 10, lines 58-61).
21. As per claim 10, Deeds teaches the invention as claimed in claim 8 above. Deeds further teach wherein the aspect of the receiver includes a plurality of codes designating geographic locations (col. 10, lines 58-61).
22. As per claim 14, Deeds teaches the invention as claimed in claim 1 above. Deeds further teach wherein the encoded signals are included in a data packet inserted into a data stream, wherein the data packet is identifiable as an alert message (col. 13, lines 35-40).
23. As per claim 16, the claim is rejected for the same reason as claims 2 and 3 above.
24. As per claim 17, the claim is rejected for the same reason as claim 1 above.

25. As per claim 18, the claim is rejected for the same reason as claim 5 above.
26. As per claim 19, the claim is rejected for the same reason as claim 6 above.
27. As per claim 20, Deeds teaches the invention as claimed receiving alert message concerning an emergency situation affecting a user location(abstract), the user location having a code designation associated therewith comprising the steps of: receiving the alert message comporting to a data format (col. 13, lines 31-40); deciphering the alert message into a report with a corresponding code designation (col. 13, lines 38-45); and rendering an alert upon a match of the code designation associated with the user location to the corresponding code designation of the report (col. 13, lines 45-49).

*Claim Rejections – 35 USC 103*

28. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

29. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deeds.

30. As per claim 12, Deeds teaches the invention as claimed in claim 1 above. Deeds does not specifically teach that the receiver is always on. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to allow the receiver to be always on for being responsive to the encoded signals because by doing so it would be able to receive unexpected warning signal that can occur at any time.

31. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deeds in view of Lock et al, U.S. Patent Application Publication 2003/0121036 (hereinafter Lock).

32. As per claim 11, Deeds teaches the invention as claimed in claim 1 above. Deeds does not teach a head end station through a cable network. Lock teaches a similar alert receiver, wherein the alert receiver is coupled to a head end station through a cable network ([0005]).

33. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teaching of Deeds and Lock because Lock's teaching would allow alert messages to be distributed to users in Deeds's system via CATV distribution cables network.

34. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deeds in view of Baron et al, U.S. Patent 5,940,776 (hereinafter Baron).

35. As per claim 13, Deeds teaches the invention as claimed in claim 1 above. Deeds does not teach vertical blanking interval of received television signal. Baron teaches a similar receiver, wherein the encoded signals include characters inserted into a vertical blanking interval (VBI) of a received television signal (col. 2, line 66-col. 3, line 9).

36. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teaching of Deeds and Baron because Baron's teaching would allow alert messages such as National Weather Service (NWS) messages to be inserted in a television signal for transmission to a remote user in Deeds's system.

## **CONCLUSION**

37. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kendall et al, US 2006/0048180.

38. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Lee whose telephone number is (571)272-3967. The examiner can normally be reached on 8 AM TO 5:30 PM Monday to Thursday and every other Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-

3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Philip C Lee/

Patent Examiner, Art Unit 2152